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09/695,216	10/25/2000	Gregory J. Lauckhart	4127-4001	2292

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MORGAN & FINNEGAN LLP
345 Park Avenue
New York, NY 10154

EXAMINER

WILLETT, STEPHAN F

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/695,216

Applicant(s)

LAUCKHART ET AL.

Examiner

Stephan F Willett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. A substitute specification excluding the claims is required pursuant to 37 CFR 1.125(a) because of all the changes made in Paper No. 5.
2. A substitute specification filed under 37 CFR 1.125(a) must only contain subject matter from the original specification and any previously entered amendment under 37 CFR 1.121. If the substitute specification contains additional subject matter not of record, the substitute specification must be filed under 37 CFR 1.125(b) and (c).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. ¶ Estimating the global traffic to at least one Web site” is unclear.

Claim Rejections - 35 USC § 103

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103 and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-10, 14-26, 29-38, 40-51, 53-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bull et al. with Patent Number 5,995,943 in view of Lee et al. with Patent Number 6,601,100.

8. Regarding claim(s) 1, 6, 7, 25, 33, 37, 45, 48, 50, 53-55, 60, 65, Bull teaches receiving traffic content collected, such as a URL, col. 14, lines 43-46 and col. 16, lines 13-15. Bull teaches storing summarized traffic data, col. 8, lines 7-8 and col. 15, lines 18-21. Bull teaches a GUI display to present data, col. 10, lines 24-26. Bull teaches statistically sampling data, col. 16, lines 1-5. Bull teaches anonymizing device that relates user identification in the traffic to mask the user identification as "pseudonym", col. 8, line 61, thus in effect creating clean data, as in legacy networks. However, Lee teaches removing URL and user data, among masking other data, col. 6, lines 22-23 and col. 7, lines 7-8, 23-29. Lee teaches number of impressions of content, col. 6, lines 38-40 as does Bull at col. 2, lines 12-15. Bull teaches the invention in the above claim(s) except for explicitly teaching estimating traffic at a Web cite. In that Bull operates to analyze content of the Internet, the artisan would have looked to the network monitoring arts for details estimating network content. In that art, Lee a related network

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monitor, teaches “the server process gets a Web page with its metadata”, col. 6, lines 5-6 in order to provide relevant data. Lee specifically teaches counting “the numbers of distinct occurrences of one or more metadata types”, col. 6, lines 33-34. Analyzing web page content at a web site is also taught. Further, Lee suggests “metadata about the Web page is a description of the Web page itself and/or its content”, col. 5-6, lines 66-1 which results from the monitoring functions. The motivation to incorporate Web cite traffic analysis insures clients, servers and intermediaries to network processing are appraised of the data they are forwarding. Thus, it would have been obvious to one of ordinary skill in the art to incorporate server page analysis as taught in Lee into the monitoring system described in Bull because Bull operates with client and servers and Lee suggests that optimization can be obtained by monitoring data transmitted at a Web server.

Therefore, by the above rational, the above claims are rejected.

9. Regarding claim(s) 2, 56, 61, 66, Bull teaches retrieving data from a proxy cache server, col. 3, lines 8-11 and col. 7, lines 12-13.

10. Regarding claim(s) 3, 34, 57, 62, 66, Lee teaches a number of impressions of content, col. 6, lines 38-40, as does Bull at col. 12, lines 12-15.

11. Regarding claim(s) 4, 23-24, 29-31, 35, 38, 41-43, 46, 49, 51, 58, 63, 68, Bull teaches a prober or monitor that fetches pages, col. 8, lines 38-41 and classifies or indexes them, col. 11, lines 60-64.

12. Regarding claim(s) 5, 20-21, 59, 64, 69, Bull teaches using criteria dependent reporting, col. 8, lines 5-6, 15-17 and col. 10, lines 24-26.

13. Regarding claim(s) 8, 10, Bull teaches a Web front end browser on the Internet, col. 9, lines 4-5 and col. 8, lines 59-61.

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14. Regarding claim(s) 9, 24, 32, 44, Bull teaches system operator administration, col. 8, lines 43-48.
15. Regarding claim(s) 14, 16, 18, Bull teaches mapping data, col. 13, lines 12-14.
16. Regarding claim(s) 15, 24, Lee teaches probability to sample a URL as rate data, col. 14, lines 20-27 and col. 15, lines 24-30 and Bull teaches URL contribution as part of the statistics, col. 15, lines 53-56.
17. Regarding claim(s) 17, Bull teaches CGI, col. 1, lines 17-18.
18. Regarding claim(s) 19, 26, Bull teaches various data content such as audio, images, etc., col. 15, lines 1-3.
19. Regarding claim(s) 22, Lee teaches XML structures, col. 9, lines 40-47.
20. Regarding claim(s) 36, 47, Bull teaches advertising content, col. 8, lines 19-21 and col. 16, lines 1-5 and in Lee at col. 16, lines 30-34.
21. Claims 11-13, 27-28, 39-40, 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bull et al. with Patent Number 5,995,943 in view of Lee et al. with Patent Number 6,601,100 and Lotspiech et al. with Patent Number 6,345,289.
22. Regarding claim(s) 11, 27, 39, 52, Bull teaches receiving traffic content collected, such as a URL, col. 14, lines 43-46 and col. 16, lines 13-15. Bull teaches storing summarized traffic data, col. 8, lines 7-8 and col. 15, lines 18-21. Bull teaches a GUI display to present data, col. 10, lines 24-26. Bull teaches statistically sampling data, col. 16, lines 1-5. Bull teaches anonymizing device that relates user identification in the traffic to mask the user identification as “pseudonym”, col. 8, line 61, thus in effect creating clean data. However, Lee teaches removing URL and user data, among masking other data, col. 6, lines 22-23 and col. 7, lines 7-8,

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23-29. Bull teaches the invention in the above claim(s) except for explicitly teaching estimating traffic at a Web cite. In that Bull operates to analyze content of the Internet, the artisan would have looked to the network monitoring arts for details estimating network content. In that art, Lee a related network monitor, teaches "the server process gets a Web page with its metadata", col. 6, lines 5-6 in order to provide relevant data. Lee specifically teaches counting "the numbers of distinct occurrences of one or more metadata types", col. 6, lines 33-34. Analyzing web page content at a web cite is also taught. Further, Lee suggests "metadata about the Web page is a description of the Web page itself and/or its content", col. 5-6, lines 66-1 which results from the monitoring functions. The motivation to incorporate Web cite traffic analysis insures clients, servers and intermediaries to network processing are appraised of the data they are forwarding. Thus, it would have been obvious to one of ordinary skill in the art to incorporate server page analysis as taught in Lee into the monitoring system described in Bull because Bull operates with client and servers and Lee suggests that optimization can be obtained by monitoring data transmitted at a Web server. Bull-Lee teaches the invention in the above claim(s) except for explicitly teaching user ID hashing functions. In that Bull-Lee operates to analyze content of the Internet, the artisan would have looked to the network monitoring arts for details estimating network content. In that art, Lotspiech a related network monitor, teaches "users may desire increased privacy", col. 6, line 31 in order to provide relevant data. Lotspiech specifically teaches "a trusted third party", col. 6, line 56 and "a disguising function", col. 7, lines 20-21 among other functions. Different types of cryptographic and secure disguising of user identification is also taught. Further, Lotspiech suggests "automatically disguises the user's demographic information", col. 7, lines 12-13 which results from the monitoring

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functions. The motivation to incorporate a disguised ID insures clients, servers and intermediaries to network processing are appraised of the data they are forwarding. Thus, it would have been obvious to one of ordinary skill in the art to incorporate a disguised ID as taught in Lotspiech into the monitoring system described in Bull-Lee because Bull-Lee operates with client and servers and Lotspiech suggests that optimization can be obtained by using a disguised ID. Therefore, by the above rational, the above claims are rejected.

23. Regarding claim(s) 12, 28, 40, Lee teaches removing URL and user address, col. 6, lines 22-23 and col. 7, lines 7-8, 23-29.

24. Regarding claim(s) 13, Lee teaches counting URL Gets, col. 6, lines 33-35.

Response to Amendment

1. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

2. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

3. Applicant suggests Lee and Bull "fails to disclose an anonymizing device'", Paper No. 8, Page 22, lines 13-14. However, Bull teaches anonymizing device that relates user identification in the traffic to mask the user identification as "pseudonym", col. 8, line 61, thus in effect creating clean data. Lee teaches removing URL and a user address, among masking other data, col. 6, lines 22-23 and col. 7, lines 23-29. Legacy methods to hide the user and their associated data are clearly taught and are not a sufficient basis for novelty. Regarding what Lee "contemplates", the references should not be read in a vacuum, the teachings are not mutually

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exclusive, and must be taken in context of what was reasonable based on the subject matter as a whole as would have been understood at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. The description in the reference is not obfuscated by the numerous other suggested usages of said description in the reference.

Clearly, any of the obtained data may be excluded from a report. Lastly, a proper rejection was made for claim 11, subsequent amendment of a claim clearly permits a final rejection, in an effort to further prosecution. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

4. Applicant suggests the references to not teach "sampling the traffic data" to obtain summarized data, Paper No. 8, Page 23, line 17. However, Lee teaches a number of impressions of content, col. 6, lines 38-40, as does Bull at col. 12, lines 12-15, which clearly teaches sampling data to determine whether there is a relevant match. Thus, Applicant's arguments can not be held as persuasive regarding patentability

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited. A close review of the references is suggested. A close review of the Jenkins reference with Patent Number 6,285,983 and Krishnan reference with Patent Number 6,366,956 is suggested. The other references cited teach numerous other ways to estimate content on a network, thus a close review of them is suggested.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

8. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

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10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

11. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.

sfw

April 26, 2004


RUPAL DHARIA
SUPERVISORY PATENT EXAMINER